

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,)
v.) Case No. S_16-cr-00776 (VEC)
ALAIN KALOYEROS,)
STEVEN AIELLO,)
JOSEPH GERARDI,)
LOUIS CIMINELLI,)
MICHAEL LAIPPLE, and)
KEVIN SCHULER.)

)

PROPOSED JUROR QUESTIONNAIRE

JUROR NUMBER _____

PLEASE PRINT ALL ANSWERS LEGIBLY IN BLUE OR BLACK INK.

Introduction

The purpose of this questionnaire is to provide information to the Court and to the attorneys in this case so that they can determine whether you can serve as a fair and impartial juror in this case. You must give true, candid, and complete answers to all questions. This is a criminal case, entitled United States of America versus Alain Kaloyerros, Steven Aiello, Joseph Gerardi, Louis Ciminelli, Michael Laipple, and Kevin Schuler. Briefly summarized, Dr. Kaloyerros was a member of the Board of Directors of Fort Schuyler Management Corporation (commonly known as FSMC) and Fuller Road Management Corporation (FRMC), which are both private not-for-profit corporations, and the president of SUNY Polytechnic Institute, a public research university. Mr. Aiello and Mr. Gerardi are employees of COR Development, a commercial real estate development company located in Syracuse, New York. Mr. Ciminelli,

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Mr. Laipple, and Mr. Schuler are employees of LPCiminelli, a construction firm located in Buffalo, New York. Dr. Kaloyerros, Mr. Aiello, Mr. Gerardi, Mr. Ciminelli, Mr. Laipple, and Mr. Schuler are charged with wire fraud and conspiracy to commit wire fraud related to FSMC's selection of preferred developers for potential construction projects. Mr. Aiello, Mr. Gerardi, Mr. Ciminelli, Mr. Laipple, and Mr. Schuler are also charged with paying bribes to an individual named Todd Howe, who the Government alleges was an agent of the State of New York during the relevant time period. Each defendant has pled not guilty, and each one is presumed innocent unless and until proven guilty.

Do not discuss this questionnaire or your answers with anyone, including Court personnel and your fellow potential jurors. Please do not leave any questions unanswered. If you do not understand a question, write that on the questionnaire and we will discuss it with you later. There is an extra page at the back of the questionnaire if you need additional space for your answers. **Do not write on the back of any page of the questionnaire.**

There are no "right" or "wrong" answers; there are only truthful answers. You are sworn to give truthful answers, so you must provide full and accurate information in response to each question. To protect your privacy, please **do not write your name on the questionnaire**. Instead, please write your juror number on the top of each page of the questionnaire.

NOTE: Do not do any research regarding this case. That means you should not "look up" the case or anyone involved on the Internet or in any other manner. **Do not discuss this case, this questionnaire, or your answers to the questions with anyone**—not your fellow jurors, your family, your employer, or your friends.

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Background Information¹

Occupation: _____

Past occupation: _____

Marital Status: _____

Spouse's occupation: _____

Place of Birth: _____

Place of Residence: _____

Highest level education completed (check one):

- No high school degree
- High school
- Some college
- College
- Postgraduate degree

Last school attended: _____

Major or area of study: _____

Note: The Government objects to the inclusion of the Background Information section and suggests it be completely eliminated.

Questions

1. The trial of this case may last up to six weeks. The jury will sit Mondays through Thursdays from approximately 9:30 am to 5:30 pm. The Court may occasionally sit on Fridays. All jury service involves some degree of hardship. Would service as a juror on this case be a serious hardship for you?

- Yes No

If yes, please explain why serving on the jury for this case would cause you a serious hardship:

Please note: In the event you are excused from service on this jury, you will not be excused from jury service in general. You will instead be required to report to the Court's Jury Clerk and may be placed on another panel.

¹ See *United States v. Barnes*, 604 F.2d 121, 135 (2d Cir. 1979); Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015).

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2. Do you have any pre-paid travel plans during June or July 2018?²

3. Do you have any personal commitments that would make it difficult for you to get to court by 9:15 am, every day of trial?

Yes No

If yes, please specify:

4. Do you or does any member of your family or a close friend personally know or have past or present dealings with any of the following individuals?

- a. Any of the defendants in this case or their family members?

Alain Kaloyerros	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Steven Aiello	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Joseph Gerardi	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Louis Ciminelli	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael Laipple	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Kevin Schuler	<input type="checkbox"/> Yes	<input type="checkbox"/> No

- b. The U.S. Attorney for the Southern District of New York, Geoffrey S. Berman, or anyone else who works for or used to work for the U.S. Attorney's Office for the Southern District of New York?

Yes No

² See Juror Questionnaire, *United States v. Silver*, No. 15-cr-00093, Dkt. No. 380 (S.D.N.Y. Apr. 10, 2018).

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c. Any of the Assistant United States Attorneys who are prosecuting this case:

Robert Boone	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Matthew Podolsky	<input type="checkbox"/> Yes	<input type="checkbox"/> No
David Zhou	<input type="checkbox"/> Yes	<input type="checkbox"/> No

d. Any of the defense attorneys or law firms who are representing the defendants:

Reid Weingarten of Steptoe & Johnson LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael C. Miller of Steptoe & Johnson LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael G. Scavelli of Steptoe & Johnson LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Stephen R. Coffey of O'Connell & Aronowitz	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Pamela A. Nichols of O'Connell & Aronowitz	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Scott W. Iseman of O'Connell & Aronowitz	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Avni P. Patel of Walden Macht & Harran LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Jacob S. Gardener of Walden Macht & Harran LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Milton L. Williams of Walden Macht & Harran LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Timothy W. Hoover of Hodgson Russ LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Jessica A. Masella of DLA Piper LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Paul L. Shechtman of Bracewell LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Terrence M. Connors of Connors LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
James W. Grable of Connors LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Nicholas A. Romano of Connors LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Herbert L. Greenman of Lipsitz Green Scime Cambria LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No

e. The United States District Court Judge who is presiding over this case, Valerie E. Caproni, or anyone who works on her staff?

 Yes No

If you answered "yes" to any of the above sub-questions (4.a, 4.b, 4.c, 4.d, or 4.e), please explain whom you know, how you know the individual(s), and whether your relationship with that person might affect your ability to be a fair and impartial juror:

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5. Before today, had you read, seen, or heard anything about criminal charges being brought against Alain Kaloyerros, Steven Aiello, Joseph Gerardi, Louis Ciminelli, Michael Laipple, or Kevin Schuler?

Yes No

If yes, from whom did you hear about the case (e.g., a friend, the newspaper, a website) and what did you read, see, or hear?

Based on anything that you have read, seen, or heard about this case, have you formed any opinion about any of the defendants?

Yes No Not applicable, I have not read/seen/heard about the case

If yes, please explain:

6. Do you have any personal knowledge of the facts underlying the accusations as they are described above?

Yes No

If yes, please explain:

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7. Have you followed the news about trials of political officials in recent years including the trials of Dean Skelos, Sheldon Silver, or Joe Percoco?³

Yes Yes, but not closely No

If yes, which trial(s) did you follow? What do you remember from the trial coverage? Did you have any strong feelings about those trials or their outcomes?

Note: The Government objects to the inclusion of Question 7 and suggests the following alternate language: "Have you followed the trials of political officials in recent years? If yes, did you have strong feelings about those trials or their outcomes that might make it difficult for you to be fair and impartial in this case?"

8. Do you have any strong opinions about politicians, government officials, or anyone else who works in government that might affect your ability to be a fair and impartial juror?

Yes No

If yes, please explain:

³ See Juror Questionnaire, *United States v. Percoco*, No. 16-cr-776, Dkt. No. 441 (S.D.N.Y. Jan. 12, 2018). The most relevant trials have been added to aid jurors' ability to respond. An additional open-ended question has been added to increase the likelihood of any bias being revealed.

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9. Is there anything about the accusations as summarized at the beginning of this questionnaire that might affect your ability to be a fair and impartial juror?

Yes No

If yes, please explain:

10. You may hear in this case that New York State has the creation of private not-for-profit corporations, like FSMC, to facilitate investments in land, buildings and economic development outside of the laws and regulations applicable to the New York State's government and its agencies. Does the creation and use of these not-for-profit corporations to facilitate investments and economic development seem wrong or immoral?⁴

Yes No

If yes, please explain:

Note: The Government objects to the inclusion of Question 10 and suggests it be completely eliminated.

⁴ See Proposed Juror Questionnaire, *United States v. Espada*, No. 10-cr-985, Dkt. No. 61-1 (E.D.N.Y. Feb. 8, 2012) (asking about potential jurors views regarding laws against theft of money from not-for-profit organizations receiving government funds).

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11. Have you or has any member of your family or a close friend ever worked for New York Governor Andrew Cuomo or anyone in his administration?

Yes No

If yes, please identify who it was, what position or agency, and when:

Note: The Government objects to the inclusion of Question 11 and suggests the following alternate language: "Have you or has any member of your family or a close friend ever worked for New York Governor Andrew Cuomo or for a New York State Agency?"

12. Do you have any opinion of Governor Cuomo that might affect your ability to be a fair and impartial juror in a case involving his associates or friends?⁵

Yes No

If yes, please explain:

Note: The Government objects to the inclusion of Question 12 and suggests it be completely eliminated.

⁵ See Juror Questionnaire, *United States v. Bruno*, No. 09-cr-29, Dkt. No. 215 (N.D.N.Y. Jan. 29, 2010) (asking about views about public officials).

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13. Have you or has any member of your family ever worked for an elected official or a New York State agency?⁶

If yes, please explain:

Note: The Government objects to the inclusion of Question 13 and suggests it be completely eliminated.

14. Do you or any member of your family have any experience lobbying the government (local, state, or federal)? Have you or any member of your family applied for public funding? Have you ever written letters or emails to your elected official(s) advocating a particular piece of proposed legislation or a proposed project? Have you or has any family member or a close friend ever requested assistance from an elected official's office?⁷

Yes to some or all. No to all.

If yes, please explain and state whether there was anything about your or their experience that might affect your ability to be a fair and impartial juror in a case that may involve lobbying?

Note: The Government objects to the inclusion of Question 14 and suggests it be completely eliminated.

⁶ See Juror Questionnaire, *United States v. Percoco*, No. 16-cr-776, Dkt. No. 441 (S.D.N.Y. Jan. 12, 2018) (agency); Juror Questionnaire, *United States v. Silver*, No. 15-cr-00093, Dkt. No. 380 (S.D.N.Y. Apr. 10, 2018) (elected official); Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015) (member of any group that lobbies or takes public positions).

⁷ See Juror Questionnaire, *United States v. Percoco*, No. 16-cr-776, Dkt. No. 441 (S.D.N.Y. Jan. 12, 2018) (lobbying); Juror Questionnaire, *United States v. Silver*, No. 15-cr-00093, Dkt. No. 380 (S.D.N.Y. Apr. 10, 2018) (requesting assistance).

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15. You may hear evidence in this case that certain defendants who engage in business with New York State made campaign contributions to or held fundraisers for New York State politicians. Do you have any strong feelings about individuals who do business with New York State also making campaign contributions to New York State politicians?

Yes No

If yes, please explain:

16. Do you have any opinion of the U.S. Attorney's Office for the Southern District of New York or the U.S. Attorney Geoffrey S. Berman that might affect your ability to be a fair and impartial juror?

Yes No

If yes, please explain:

17. Do you have any opinions about prosecutors or criminal defense attorneys generally that might affect your ability to be a fair and impartial juror?

Yes No

If yes, please explain:

18. Do you have any opinion about the criminal justice system generally or the federal criminal justice system in particular that affect your ability to be a fair and impartial juror?

Yes No

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If yes, please explain:

19. Have you or has any member of your family or a close friend ever worked for any institution affiliated with the State University of New York (SUNY) system including, but not limited to, SUNY Polytechnic Institute in Albany?

Yes No

If yes, please identify who it was and when:

Note: The Government objects to the wording of Question 19 and suggests the following alternate language: "Have you or has any member of your family or a close friend ever worked for SUNY Polytechnic Institute in Albany?"

20. Do you have any strong feelings about college, professors, scientists, or intellectuals?

Yes No

If yes, please explain:

Note: The Government objects to the inclusion of Question 20 and suggests it be completely eliminated.

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21. Do you have any strong feelings about construction companies or the real estate industry?

Yes No

If yes, please explain:

Note: The Government objects to the inclusion of Question 21 and suggests the following alternate language: "Do you have any strong feelings about construction companies or the real estate industry that might make it difficult for you to be a fair and impartial juror in a case that involves individuals in the construction and real estate business?"

22. Have you or any member of your family ever lived in or around the following cities in New York State: Albany, Syracuse, or Buffalo?⁸

Yes No

If yes, please identify who it was and when:

Note: The Government objects to the inclusion of Question 22 and suggests it be completely eliminated.

⁸ See Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015) (asking for all cities and neighborhoods that the potential juror has lived in within the last ten years with specific question regarding boroughs and counties of interest); Juror Questionnaire, *United States v. Bruno*, No. 09-cr-29, Dkt. No. 215 (N.D.N.Y. Jan. 29, 2010) (asking for all cities and towns that the potential juror has lived in within the last ten years).

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23. Do you have any experience with or knowledge of procurement procedures or determining which vendor a company should hire for a project?

Yes No

If yes, please explain:

Note: The Government objects to the inclusion of Question 23 and suggests it be completely eliminated.

24. Have you or any member of your family or a close friend ever worked for or had any personal interaction with any of the following companies?

- COR Development
- LPCiminelli
- Fort Schuyler Management Corporation (FSMC)
- Whiteman Osterman and Hannah LLP

25. Do you or does any member of your family or a close friend have / have had dealings with any of the following individuals or entities:

[List to be provided]

If yes, please indicate whom you know and how you know them:

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26. Have you or has any member of your family or a close friend ever practiced law?

Yes No

If yes, please explain:

27. Have you or has any member of your family or a close friend ever served as a juror in criminal or civil trial?⁹

Yes No

If yes, please explain what type of case and what the result was:

Note: The Government objects to the inclusion of Question 27 and suggests it be completely eliminated.

⁹ See Juror Questionnaire, *United States v. Discala*, No. 14-cr-399, Dkt. No. 501 (E.D.N.Y. Feb. 13, 2018); Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015).

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28. Have you or has any member of your family or a close friend ever brought a civil lawsuit or been a defendant in a civil lawsuit?

Yes No

If yes, please explain:

29. Have you or has any member of your family or a close friend ever worked for law enforcement or a related agency, such as a police department, a prison, or immigration enforcement?¹⁰

Yes No

If yes, please explain:

Note: The Government objects to the inclusion of Question 29 and suggests it be completely eliminated.

¹⁰ See *United States v. Barnes*, 604 F.2d 121, 135 (2d Cir. 1979); Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015).

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30. Would you be more or less likely to believe testimony from a law enforcement officer than any other witness?¹¹

- More likely to believe law enforcement officer
- Less likely to believe law enforcement officer
- No change

Note: The Government objects to the inclusion of Question 30 and suggests it be completely eliminated.

31. Have you or has any member of your family or a close friend ever been accused of a crime or arrested?¹²

- Yes
- No

If yes, please explain:

Note: The Government objects to the inclusion of Question 31 and suggests it be completely eliminated.

¹¹ See Juror Questionnaire, *United States v. Discala*, No. 14-cr-399, Dkt. No. 501 (E.D.N.Y. Feb. 13, 2018) (asking generally about opinions or beliefs about law enforcement).

¹² See Juror Questionnaire, *United States v. Silver*, No. 15-cr-00093, Dkt. No. 380 (S.D.N.Y. Apr. 10, 2018) (similar wording); Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015) (“involved in . . . a criminal investigation” or “charged with a crime”).

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32. Have you or has any member of your family or a close friend ever been the victim of a crime or fraud?

Yes No

If yes, please explain:

33. Have you or has any member of your family or a close friend ever testified as a witness in a deposition, in any sort of trial, or before a grand jury?

Yes No

If yes, please explain:

34. The Judge will instruct you that you must apply the following legal principles. Will you have any trouble following any of them?¹³

¹³ See Juror Questionnaire Part IV, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015) (asking multiple questions about ability to follow legal principles regarding defendants' constitutional rights); Juror Questionnaire Part III, *United States v. Dervishaj*, No. 13-cr-668, Dkt. No. 93 (E.D.N.Y. June 26, 2015) (same); Proposed Juror Questionnaire, *United States v. Espada*, No. 10-cr-985, Dkt. No. 61-1 (E.D.N.Y. Feb. 8, 2012) (same).

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- a. The defendants are presumed to be innocent.¹⁴
 Yes, I can follow this principle.
 I have concerns about following this principle.
- b. The indictment is just a list of the government's accusations. It is not evidence against the defendants.¹⁵
 Yes, I can follow this principle.
 I have concerns about following this principle.
- c. The defendants have no obligation to prove or say anything. If a defendant does not testify, the jury may not consider that fact in any way in reaching a decision as to whether a defendant is guilty or not guilty.¹⁶
 Yes, I can follow this principle.
 I have concerns about following this principle.
- d. The Judge will instruct you as to the elements of each offense charged. The government has the burden to prove guilt beyond a reasonable doubt as to each and every element of every offense charged.¹⁷
 Yes, I can follow this principle.
 I have concerns about following this principle.

¹⁴ See *United States v. Sattar*, 395 F. Supp. 2d 66, 70 (S.D.N.Y. 2005), *aff'd sub nom. United States v. Stewart*, 590 F.3d 93 (2d Cir. 2009); Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015); Proposed Juror Questionnaire, *United States v. Espada*, No. 10-cr-985, Dkt. No. 61-1 (E.D.N.Y. Feb. 8, 2012).

¹⁵ See Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015) ("Remember that under the law an indictment is not evidence, it is merely an accusation, and that a defendant is presumed to be innocent of the charges described in an indictment unless and until the government establishes a defendant's guilt beyond a reasonable doubt. If you are selected as a juror in this case, it will be your duty to determine whether, based solely on the evidence presented at trial, the government has proved beyond a reasonable doubt that the defendant is guilty of the crimes charged.").

¹⁶ See Juror Questionnaire, *United States v. Ashburn*, No. 11-cr-303, Dkt. No. 291 (E.D.N.Y. Jan. 22, 2015); Proposed Juror Questionnaire, *United States v. Espada*, No. 10-cr-985, Dkt. No. 61-1 (E.D.N.Y. Feb. 8, 2012).

¹⁷ See *United States v. Sattar*, 395 F. Supp. 2d 66, 70 (S.D.N.Y. 2005), *aff'd sub nom. United States v. Stewart*, 590 F.3d 93 (2d Cir. 2009); Proposed Juror Questionnaire, *United States v. Espada*, No. 10-cr-985, Dkt. No. 61-1 (E.D.N.Y. Feb. 8, 2012).

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- e. The Judge will instruct you that campaign contributions and fundraising are an important and completely legitimate part of the American system of privately-financed elections. The Judge will also instruct you that the contributions in this case were perfectly legal.¹⁸

- Yes, I can follow these principles.
 I have concerns about following these principles.

Note: The Government objects to the inclusion of Question 34 and suggests it be completely eliminated.

35. Do you have any religious beliefs or ethical beliefs that would prevent you from passing judgment on another person?

- Yes No

If yes, please explain:

36. Do you have any difficulty with your eyesight or hearing or have any medical or physical condition that would make it difficult for you to serve on a jury?

- Yes No

If yes, please explain:

37. Do you have any difficulty reading or understanding the English language?

- Yes No

¹⁸ See *United States v. Ring*, 706 F.3d 460, 472 (D.C. Cir. 2011) (limiting instruction language).

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38. Is there anything else that might affect your ability to be a fair and impartial juror?¹⁹

Yes No

If yes, please explain:

Note: The Government objects to the inclusion of Question 38 and suggests it be completely eliminated.

I swear (or affirm) that all of the answers provided above are truthful.

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Reminder: Do not write your name on this questionnaire.

¹⁹ See *United States v. O'Hara*, No. 10-cr-228, Dkt. No. 473 (S.D.N.Y. Oct. 3, 2013).

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Extra space for your answers to any of the questions. Please write the question number: